

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11811 OF 2015

Dilip H. Doshi ..Petitioner

Vs

Dr.(Miss) Charulata Chaturbhai
Patel .. Respondent

AND

WRIT PETITION NO. 11812 OF 2015

Raj Kochar ..Petitioner

Vs

Dr.(Miss) Charulata Chaturbhai
Patel .. Respondent

Mr. G.S.Godbole, Sr.Advocate, i/b Mr. Kunal Bhanage a/w Varun Shah, Advocates for Petitioner.
Ms. Minal Vijay Chavan, Advocate for Respondent.
Ms.Charulata Patel – respondent present.

CORAM : R.G.KETKAR,J.
DATE : 04/12/2015

PC:

1. Heard Mr. G.S.Godbole, learned senior counsel for the petitioner and Ms Minal Chavan, learned counsel for the respondent in both Petitions at length.
2. Rule. Ms. Chavan waives service for the respondent. At the request and by consent of the parties, Rule is made returnable forthwith and Petitions are taken up for final hearing.
3. By these Petitions, original defendant has challenged

order dated 27.11.2015 passed by the learned trial Judge, whereby leave to register draft Notice of Motion tendered by the defendant was rejected.

4. Mr. Godbole submitted that the learned trial Judge has not considered the provisions of Sections 6,8,14, and 18 of the Maharashtra Court Fees Act as also Section 8 of the Suits Valuation Act, 1887. Mr. Godbole submitted that the reliefs claimed in the suits are falling in paragraph (v) of Section 6 and in addition thereto they do not refer to paragraphs (vi) (x) and clause (d) of paragraph 11 in Section 6 of the Maharashtra Court Fees Act. In short, he submitted that the suits instituted by the plaintiff embrace two and more distinct subjects and accordingly the plaintiff has valued the suits and paid court-fee separately. This aspect was not considered by the learned trial Judge. The learned trial Judge rejected leave to register the Motions mainly on the ground of delay. He submitted that in fact the Chamber Summons taken out by the plaintiff for amending plaint were allowed on 10.8.2015 and thereafter the present Motions are taken out on 27.11.2015. He has taken me through Rozanama of the suits.

5. Ms. Chavan submitted that since the learned trial Judge has refused leave to register the Motions, he did not go into merits of the defendant's contentions. Upon taking instructions from

respondent- Ms Charulata Patel who is present in the court, she submits that the respondent consents for setting aside the impugned order subject to trial Court being directed to dispose of the Motions within two weeks. She states that the next date of hearing in the trial Court is 8.12.2015 when she will file reply after giving advance copy to the other side to the Motions taken out by the defendant.

6. In view thereof, by consent of the parties, Petitions are disposed of in the following terms:

(i) The impugned order dated 27.11.2015 is set aside and leave to register draft Notices of Motion tendered by the defendant is granted in Suits No. 9835 of 1987 and 9836 of 1987.

(ii) The respondent-plaintiff shall file affidavits-in-reply on or before 8.12.2015 after giving advance copy to other side. Learned trial Judge is requested to decide the Motions within two weeks from 8.12.2015 uninfluenced by the observations made herein and in accordance with law.

(iii) Rule is made absolute in above terms with no order as to costs.

(R.G.KETKAR, J.)